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*Attorneys for Plaintiffs and the Putative Classes*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA**

**JONATHAN HOANG TO; JEFFRY HEISE;**  
**and JOSEPH MULL**, individually and on  
behalf of all others similarly situated,

Plaintiffs,

v.

**DIRECTTOU, LLC; and ALLIANCE**  
**ENTERTAINMENT, LLC**, Delaware Limited  
Liability Companies,

Defendants.

Case No. 3:24-CV-06447-WHO

**DECLARATION OF FRANK S. HEDIN  
IN SUPPORT OF PLAINTIFFS'  
OPPOSITION TO DEFENDANTS'  
MOTION TO COMPEL  
ARBITRATION**

Judge: Hon. William H. Orrick  
Courtroom: 2  
Hearing Date: June 4, 2025  
Hearing Time: 2:00 p.m.

1 I, Frank S. Hedin, declare under penalty of perjury, pursuant to 28 U.S.C. § 1746, that the  
2 following statements are true:

3 1. I am a member in good standing of the Bar of the State of California and counsel of  
4 record for Plaintiffs and the putative classes in this matter. I make this declaration based on personal  
5 knowledge and, if called as a witness, I could and would testify competently to the matters set forth  
6 herein.

7 2. I submit this declaration in order to provide relevant background and information  
8 regarding the proceedings and filings in the earlier-filed action filed against Defendants by Plaintiffs  
9 Heise, Mull, and Feller.

10 3. On August 8, 2024, by Plaintiffs Heise and Mull, represented by my firm, filed a  
11 Class Action Complaint against Defendants for violation of the Video Privacy Protection Act  
12 (“VPPA”) in the Southern District of Florida, initiating the action titled *Feller v. Alliance*  
13 *Entertainment, LLC*, No. 24-cv-61444-RAR (S.D. Fla.) (the “*Feller Action*”). (*Feller*, ECF No. 1.)  
14 On August 13, 2024, Defendants waived service of the summons and Complaint. (*Feller*, ECF Nos.  
15 11-12.).

16 4. On September 9, 2024, the parties to the *Feller Action* filed a Joint Scheduling  
17 Report in which they jointly proposed a timeline for discovery. (*Feller*, ECF No. 26.) A true and  
18 correct copy of the parties’ Joint Scheduling Report filed in the *Feller Action* is attached hereto as  
19 **Exhibit A**.

20 5. On September 11, 2024, following the Scheduling Conference, the Court issued an  
21 Order setting a two-week jury trial beginning on October 6, 2025 and setting case deadlines. A true  
22 and correct copy of the Court’s scheduling Order in the *Feller Action* is attached hereto as **Exhibit**  
23 **B**.

24 6. The parties to the *Feller Action* thereafter exchanged initial disclosures pursuant to  
25 Rule 26(a). A true and correct copy of the initial disclosures served by Defendants in the *Feller Action*  
26 is attached hereto as **Exhibit C**.  
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1           7.       On September 12, 2024, the *Feller* plaintiffs served first sets of requests for  
2 production of documents and interrogatories to Defendants. Defendants served written responses  
3 and objections to the *Feller* plaintiffs' first sets of requests for production of documents and  
4 interrogatories on November 1, 2024, true and correct copies of which are attached hereto as  
5 **Composite Exhibit D.**

6           8.       On September 13, 2024, the *Feller* plaintiffs served notices of deposition to  
7 Defendants pursuant to Federal Rule of Civil Procedure 30(b)(6). Defendants served written  
8 responses and objections to the *Feller* plaintiffs' notices of deposition on November 11, 2024, true  
9 and correct copies of which are attached hereto as **Composite Exhibit E.**

10           9.       On September 30, 2025, the parties to the *Feller* action filed a motion seeking  
11 appointment of a mediator (Hon. James F. Holderman (Ret.) of JAMS).

12           10.      On October 4, 2024, Defendants served first sets of requests for production of  
13 documents and interrogatories to the *Feller* plaintiffs. True and correct copies of Defendants' first  
14 sets of requests for production of documents and interrogatories to the *Feller* plaintiffs are attached  
15 hereto as **Composite Exhibit F.**

16           11.      On October 10, 2024, the *Feller* plaintiffs and Defendants attended a full day of  
17 mediation before the Hon. James F. Holderman (Ret.) of JAMS in an effort to resolve the matter.  
18 (*Feller*, ECF No. 35.) In advance of the mediation, the parties exchanged materials concerning  
19 insurance coverage and the size of the putative class and drafted and exchanged comprehensive  
20 mediation statements. The mediation before Judge Holderman did not produce a settlement, and the  
21 parties continued to negotiate during the following days. (*Feller*, ECF No. 35 (Mediation Report).)

22           12.      On October 24, 2024, Defendants filed in the *Feller* Action an Expedited Motion to  
23 Stay Pending Preliminary Approval, requesting that the Court to put the case on ice for 120 days to  
24 afford time for the parties to the instant matter to finalize their proposed class-wide Settlement  
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1 Agreement and for this Court to decide whether to approve such settlement. (*Feller*, ECF No. 36.) A  
2 true and correct copy of the Defendants' Expedited Motion to Stay Pending Preliminary Approval in  
3 the *Feller* Action is attached hereto as **Exhibit G**.

4 13. On November 1, 2024, Defendants filed a motion to dismiss the *Feller* action  
5 pursuant to Federal Rule of Civil Procedure 12(b)(6), in which Defendants asked the Court to issue a  
6 decision holding that the VPPA violates the First Amendment and/or that the *Feller* plaintiffs failed  
7 to allege facts plausibly suggestive of a claim for relief under the statute. (*Feller*, ECF No. 45.) A  
8 true and correct copy of the Defendants' motion to dismiss filed on November 1, 2024 in the *Feller*  
9 Action is attached hereto as **Exhibit H**.

10 14. On November 12, 2024, the Court presiding over the *Feller* Action held a hearing  
11 concerning Defendants' Expedited Motion to Stay Pending Preliminary Approval in the *Feller*  
12 Action. (*Feller*, ECF No. 52.) At the hearing, Defendants did not mention any agreement to arbitrate,  
13 that any of the plaintiffs in either of the actions had entered into any such agreement, or that  
14 Defendants intended to file a motion to compel any of the plaintiffs to individual arbitration pursuant  
15 to any such agreement.

16 15. Later on November 12, 2024, the Court presiding over the *Feller* Action issued an  
17 order granting Defendants' Expedited Motion to Stay Pending Preliminary Approval in the *Feller*  
18 Action, and ordered the parties to the *Feller* Action to submit a joint status report within 14 days to  
19 update the court on any developments in the instant matter. (*Feller*, ECF No. 53.)

20 16. On November 26, 2024, the parties to the *Feller* Action submitted a joint status  
21 report advising the court that the Court presiding over the instant matter had scheduled a hearing on  
22 the pending motions to intervene, to dismiss, stay, and transfer, and for preliminary approval. (*Feller*,  
23 ECF No. 54.)

1           17. On November 26, 2024, the court presiding over the *Feller* Action issued an order  
2 directing the parties to submit another joint status report on the instant matter, which it characterized  
3 as a “related action,” within 60 days. (*Feller*, ECF No. 55.)

4           18. Following this Court’s issuance of its order denying preliminary approval, counsel  
5 for Plaintiff Hoang To and counsel for Plaintiffs Heise and Feller (who were formerly plaintiffs in  
6 the *Feller* Action) reached an agreement to jointly prosecute this matter on behalf of the proposed  
7 classes.  
8

9           19. On January 27, 2025, the parties filed a joint status report. (*Feller*, ECF No. 56.) A  
10 true and correct copy of the parties’ joint status report filed on January 27, 2025 in the *Feller* Action  
11 is attached hereto as **Exhibit I**.

12           20. On January 28, 2025, the court presiding over the *Feller* Action issued an order  
13 indefinitely continuing the stay of that matter “[b]ecause litigation remains active in the *Hoang To*  
14 action on a number of fronts, including on matters that may be case-dispositive in this action[.]”  
15 (*Feller*, ECF No. 57.)  
16

17           21. On February 7, 2025, Plaintiff Hoang To filed a Third Amended Complaint in the  
18 instant matter, which, *inter alia*, adds Jeffry Heise and Joseph Mull (two of the three plaintiffs in the  
19 *Feller* Action) as Plaintiffs in this case, to serve alongside Plaintiff Hoang To as putative  
20 representatives of the classes.  
21

22           22. Later on February 7, 2025, the *Feller* plaintiffs filed a notice of voluntary dismissal  
23 without prejudice in the *Feller* Action pursuant to Rule 41(a)(1) and the court dismissed without  
24 prejudice the same day. (*Feller*, ECF Nos. 60, 61.)  
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26           I hereby declare under penalty of perjury of the laws of the United States that the foregoing  
27 statements are true and correct. Executed on April 7, 2025.  
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/s/ Frank S. Hedin  
Frank S. Hedin